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May 21, 2010

Via Electronic Filing

Office of the Chief Clerk (MC 105)
ATTN: Agenda Docket Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: In the Matter of the Application by Farmersville Investors, L.P.
for TPDES Permit No. WQ0014778001
TCEQ Docket No. 2008-1305-MWD; SOAH Docket No. 582-09-2895

To Whom It May Concern:

Pursuant to Mr. Trobman's letter dated April 27, 2010, enclosed for filing please find the Applicant's Brief on Motion to Reopen Record to Offer Final Feasibility Report in the above-referenced matter.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Moore", is written over a horizontal line.

John R. Moore

JRM/jg
1137455
ENCLOSURES

cc: Service List attached to Brief (via facsimile)
Mr. Kyle Kruppa
Mr. Brad B. Castleberry
Mr. Jeffrey S. Reed

**SOAH DOCKET NO. 582-09-2895
TCEQ DOCKET NO. 2008-1305-MWD**

APPLICATION OF FARMERSVILLE	§ TO THE COMMISSIONERS
	§
INVESTORS, LP, FOR TPDES	§ OF THE TEXAS COMMISSION ON
	§
PERMIT NO. WQ0014778001	§ ENVIRONMENTAL QUALITY

**APPLICANT'S BRIEF ON MOTION TO REOPEN RECORD
TO OFFER FINAL FEASIBILITY REPORT**

**TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:**

COMES NOW APPLICANT, Farmersville Investors, LP ("Farmersville"), pursuant to Texas Commission on Environmental Quality General Counsel's letter dated April 27, 2010, and files its Brief regarding Protestants James A. and Shirley Martin's Motion to the Reopen Record for the Limited Purpose of Offering the Final Feasibility Report, and would respectfully show:

I. INTRODUCTION

Protestants James A. and Shirley Martin (Protestants) filed a Motion to the Reopen Record for the Limited Purpose of Offering the Final Feasibility Report (Motion) on April 20, 2010. The Motion seeks to reopen the record for the limited purpose of offering a final version of a Report regarding an investigation of the feasibility of establishing one or more regional wastewater treatment plants on the east side of Lake Lavon. A draft of the report was admitted into evidence and considered by the Administrative Law Judge (ALJ) in reaching the following proposed findings of fact and conclusions of law:

Findings of Fact:

46. There is need for Farmersville's proposed WWTP under TEX. WATER CODE ANN. § 26.082 based on the construction schedule for the Farmersville property.

47. There is currently no regional wastewater treatment plant available for Farmersville to connect into, and no agreements for the building of any such regional plant have been finalized or are set for the foreseeable future.
48. No area-wide, regional, or other wastewater treatment plant and/or collection system is available to serve the needs of the Farmersville development.
49. Onsite sewage facilities are not a viable option for wastewater treatment for the Farmersville development base on the location of the property.

Conclusions of Law:

5. Farmersville's proposed WWTP is needed based on the Commission's consideration of regionalization and need under TEX. WATER CODE ANN. § 26.0282.
6. The Draft Permit adequately addresses regionalization concerns based on the Commission's consideration of need and regionalization under TEX. WATER CODE ANN. § 26.0282.
7. No additional terms or conditions should be included in the permit based on the Commission's consideration of need and regionalization under TEX. WATER CODE ANN. § 26.0282.

The final feasibility report, if in evidence, would change nothing in respect to the foregoing proposed findings of fact and conclusions of law. Protestants concede that the final version of the report is nearly identical to the draft version already in evidence. More importantly, the final report does not obligate any entity to create, construct, or even begin planning a regional plant that might some-day serve the needs of Farmersville's development. The ultimate finding that *no area-wide, regional, or other wastewater treatment plant and/or collection system is available to serve the needs of the Farmersville development*, remains unaltered.

On the eve of commencing the originally scheduled evidentiary hearing in this proceeding, Protestants presented the draft report to the Administrative Law Judge and requested that the process be delayed while they investigated the impacts of the draft feasibility report.

After three months of delay, Protestants had nothing to impact the conclusion that *no area-wide, regional, or other wastewater treatment plant and/or collection system is available to serve the needs of the Farmersville development.* Protestants are now seeking additional delay. Farmersville requests that Protestants' latest attempt at delay, their Motion to the Reopen Record for the Limited Purpose of Offering the Final Feasibility Report, be in all things denied.

Farmersville further requests such additional relief to which it might show itself justly entitled.

Respectfully submitted,

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By: 

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ATTORNEYS FOR APPLICANT
FARMERSVILLE INVESTORS, LP

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of May, 2010, a true and correct copy of the foregoing Applicant's Brief Regarding Protestants James A. and Shirley Martin's Motion to the Reopen Record for the Limited Purpose of Offering the Final Feasibility Report was provided by U.S. mail, hand-delivery, or facsimile to the persons listed below:

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